

JPW

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Porfirio OLIVA-Gonzales

Defendant.

'08 MJ 07 24

Magistrate Case No. \_\_\_\_\_

COMPLAINT FOR VIOLATION OF

Title 8, U.S.C., Section 1326

Attempted Entry After

Deportation (Felony)


FILED  
2008 MAR -7 AM 9:53

KWK

The undersigned complainant being duly sworn states:

On or about **March 5, 2008**, within the Southern District of California, defendant **Porfirio OLIVA-Gonzales**, an alien, who previously had been excluded, deported and removed from the United States to Mexico, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the San Ysidro Port of Entry, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

  
SIGNATURE OF COMPLAINANT  
Sara Esparagoza, United States Customs  
and Border Protection Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE THIS **7th** DAY OF **March** 2008.

  
UNITED STATES MAGISTRATE JUDGE

**CATHY ANN BENCIVENGO**  
**U.S. MAGISTRATE JUDGE**

**PROBABLE CAUSE STATEMENT**

On March 5, 2008 at approximately 1952 hours, a male individual identified as **Porfirio OLIVA-Gonzales (Defendant)**, applied for admission to the United States at the San Ysidro Port of Entry as the driver of a Toyota Camry bearing Mexican license plates. Defendant presented to a U.S. Customs and Border Protection (CBP) Officer a Border Crosser Card (DSP-150) bearing the name Alfonso Valenzuela Acosta. Defendant stated he was going to San Diego, California. Defendant claimed he did not know who the owner of the vehicle was. During an inspection of the vehicle, the CBP Officer found that he could not open the trunk. The CBP Officer referred Defendant and vehicle to secondary for further inspection.

During secondary, four undocumented aliens were discovered concealed in the trunk of the vehicle. All four subjects were determined to be citizens of Mexico without legal documents or entitlements to enter the United States. Defendant was confirmed to be an impostor to the document presented and admitted to his true identity and was also determined to be a citizen of Mexico without legal documents to enter the United States.

Defendant was queried by fingerprint and photograph through the Automated Biometric Identification System (IDENT) and the Integrated Automated Fingerprint Identification System (IAFIS) which confirmed Defendant's identity and criminal history. Further queries through the Central Index System (CIS) and the Deportable Alien Control System (DACS) confirmed Defendant to be a citizen of Mexico without legal documents or entitlements to enter the United States. Records indicate Defendant was ordered deported by an Immigration Judge on or about August 20, 1999. CBP records contain no evidence that Defendant has applied for, nor received permission from the Attorney General of the United States, or his designated successor, the Secretary of the Department of Homeland Security to legally re-enter the United States.